

HUD PROPOSES NEW RULE TO ENSURE EQUAL ACCESS TO HOUSING REGARDLESS OF SEXUAL ORIENTATION OR GENDER IDENTITY

On January 20, 2011, the U.S. Department of Housing and Urban Development proposed new regulations intended to ensure that its core housing programs are open to all eligible persons, regardless of sexual orientation or gender identity. [Click here to view the proposed rule on HUD's website.](#)

“This is a fundamental issue of fairness,” said HUD Secretary Shaun Donovan. “We have a responsibility to make certain that public programs are open to all Americans. With this proposed rule, we will make clear that a person’s eligibility for federal housing programs is, and should be, based on their need and not on their sexual orientation or gender identity.”

HUD is seeking public comment on a number of proposed areas including:

- Prohibiting lenders from using sexual orientation or gender identity as a basis to determine a borrower’s eligibility for FHA-insured mortgage financing. FHA’s current regulations provide that a mortgage lender’s determination of the adequacy of a borrower’s income “shall be made in a uniform manner without regard to” specified prohibited grounds. The proposed rule would add actual or perceived sexual orientation and gender identity to the prohibited grounds to ensure FHA-approved lenders do not deny or otherwise alter the terms of mortgages on the basis of irrelevant criteria.
- Clarifying that all otherwise eligible families, regardless of marital status, sexual orientation, or gender identity, have the opportunity to participate in HUD programs. In the majority of HUD’s rental and homeownership programs the term “family” already has a broad scope, and includes a single person and families with or without children. HUD’s proposed rule clarifies that families, otherwise eligible for HUD programs, may not be excluded because one or more members of the family may be an LGBT individual, have an LGBT relationship, or be perceived to be such an individual or in such relationship.
- Prohibiting owners and operators of HUD-assisted housing, or housing whose financing is insured by HUD, from inquiring about the sexual orientation or gender identity of an applicant for, or occupant of, the dwelling, whether renter- or owner-occupied. HUD is proposing to institute this policy in its rental assistance and homeownership programs, which include the Federal Housing Administration (FHA) mortgage insurance programs, community development programs, and public and assisted housing programs.

HUD’s proposed rule invites comments from the public by March 25, 2011.